

REMARKS/ARGUMENTS

Reconsideration of this patent application is respectfully requested in view of the foregoing amendments and the following remarks.

The applicant's attorney William Collard hereby thanks Examiner Hale for the telephone interview conducted on Tuesday September 15. During the interview, the applicant's attorney William Collard and Examiner Hale discussed proposed amendments to the claims as well as the language of the claims in relation to the drawings and the specification. Examiner Hale indicated that there was evidence of three different inventions, a first invention relating to a sling coupled to a wearer's body, a second invention relating to a sling coupled to a garment, and a third invention relating to a breast support apparatus disclosed in FIGS. 9 and 10.

The Examiner has rejected claims 12-13, 17, 19-22, 30 and 31 under 35 U.S.C. 112 second paragraph. The Examiner has not discussed any rejections of claims 1, 11, 14, 15, 16, 18, or 23-29.

The Examiner has stated that the drawings are objected to because they do not show the compression ring and deformable material.

It is respectfully submitted that FIG. 4 shows a "compression ring" and "deformable material". This objection is discussed in greater detail below with regard to claims 20 and 21.

Regarding the rejections under 35 U.S.C. 112 second paragraph:

The examiner has stated that “there is no antecedent basis for the garment since the garment has not been positively claimed in combination with the support apparatus”

It is respectfully submitted that claim 12 as originally written should not have been rejected under 35 U.S.C. 112 second paragraph. For example, the term “garment” was present in the preamble of claim 1. Claim 12 depended on claim 1 and claim 12 was not written to claim the garment. Instead, claim 12 as originally written was intended to cover a “fastener which is configured to fasten to the garment.”

However, in the interests of furthering prosecution, claim 12 has been amended to positively claim the term “garment”. In addition, claim 12 has been amended to now include the elements of previously filed claim 1. Claim 12 is now written as an independent claim.

In claim 13, it is respectfully submitted that claim 13 as originally written was sufficiently clear that the rejection under 35 U.S.C. 112 second paragraph was unnecessary. For example, if the ends of the sling are coupled together then they are inherently “close together”. However in the interests of furthering prosecution claim 13 has been amended to overcome this rejection.

Regarding claim 17, claim 17 has been amended to add the term “garment”. Therefore, it is respectfully submitted that claim 17 has been amended to overcome this rejection.

Regarding the amendment to claim 19, the term displaceable or deformable has been removed and the term “adjustable” has been added. The term adjustable has been used throughout the specification, particularly: page 8 line 2, page 14 lines 15, 19, 21, page 17 .line 20, page 19 lines 21, 23, page 24, line 15.

Regarding claims 20 and 21 the term “compression” means the following

Compression

1: a) the act, process or result of compressing; b) the state of being compressed;

In addition the term compressed means the following:

Compressed

1: pressed together; reduced in size or volume (as by pressure);

The term compress means the following:

Compress

1: to press or squeeze together 2: to reduce in size or volume as if by squeezing.

See *Webster's Ninth New Collegiate Dictionary* Copyright 1990, Merriam

Webster, Inc.

It is clear that from the term “compression” that the “sling” which is shown by way of example in FIG. 4 is wrapped around a breast and exhibits forces shown by arrows “a” and “b” which show compression against a woman’s breast. Thus, it is clear from both the drawings in FIG. 4 as well as in the specification on page 14 second paragraph.

For example, page 14 second paragraph is as follows:

FIG. 4 of the drawings shows a front view of an individual breast 201 supported by breast support apparatus 1 (FIG. 1). Since the breast 201 is supported by the support apparatus 1 which acts in the manner of a sling, it is believed that better lift and support is given to the breast, from underneath and from both sides, more particularly by forces acting in directions of arrows a and b in the FIGURE. Thus the breast 201 itself is not squashed or flattened out or lifted directly from underneath in a manner which could cause bulging. Importantly, the breast 201 is fully supported in an area extending outwardly from the junction of the breast with the body rather than merely from underneath at a location spaced from said junction. Thus, the breast support apparatus 1 hugs the contour of the breast 201.

It is clear from the above definitions, as well as the above descriptions, as well as the drawings shown in FIGS. 3 and 4, the term “compression ring” is clearly an appropriate term to describe the sling as claimed in claims 20 and 21. Therefore, it is respectfully requested that the rejection to claims 20 and 21 be removed.

Regarding claim 22, it is respectfully submitted that claim 22 does not require a fastener, or fastening means, however, claim 22 is being amended to add a fastener as required by the Examiner.

Regarding claim 31, the Examiner indicates that no structure has been claimed to provide compression. It is respectfully submitted that claim 31 is a method claim, therefore the requirement for a particular structure is not necessary. However, by way of example, it is respectfully submitted that a “sling of stretchable material” as provided in the first step of claim 31 clearly satisfies the requirement for a structure to provide compression.

Based upon the above amendments and arguments, it is respectfully submitted that the remaining claims have satisfied all of the requirements under 35 U.S.C. 112 first and second paragraph, and that these remaining claims in their present form have been written to overcome the above identified objections and rejections by the Examiner.

Furthermore, it is noted that the Office Action fails to specifically address all of the expressly recited features of the pending independent and dependent claims. Under the Office’s policy of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability the initial review of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. (MPEP §707.07(g)). It is submitted that the present application is not sufficiently informal, so as to reasonably preclude a complete action on the merits. Thus, it is submitted that because the Office did not review all of the claims it did not expeditiously provide the information necessary to resolve issues related to patentability that prevents the Applicant from, for example, presenting appropriate patentability arguments and/or rebuttal evidence. (See The Official Gazette Notice of November 7,

2003). Additionally, it is submitted that because the Office did not review all of the claims, it needlessly encourages piecemeal prosecution, which is to be avoided as much as possible. (MPEP §707.07(g)). Accordingly, in the event that the Office maintains the rejection of any of the claims, Applicant respectfully requests, in the interests of compact prosecution, that the Office apply art against each feature of each rejected claim, on the record, and with specificity sufficient to support a prima facie case of anticipation (or obviousness

It is respectfully submitted that since this office action did not address all of the claims, particularly apply any art or any rejection against independent claims 1, 14, 15, 16 or dependent claims 2-12, or 23-30, any following rejection would necessarily require either an allowance of the unrejected claims, or if the currently unrejected claims are to be subsequently rejected, then this rejection should be in the form of a non-final action.

No new matter has been added. In addition independent claim 31 has also been amended to recite that the sling is coupled to the body of the wearer.

In conclusion, claims 1, 12, 13, 17, 19, 22, 24, 25, 26, 30 and 31 have been amended. Claims 2-10, and 23 have been canceled. Claims 1, 11-22, and 24-37 remain in the application. Claims 32-37 are new. Support for these claims is found in the drawings, particularly FIG. 10 and also in the specification page 25.

The Commissioner is hereby authorized to charge Collard & Roe, P.C.'s deposit account 032468 in the amount for the additional six (6) dependent claims. The Commissioner is hereby authorized to charge for any additional fee or to credit for any overpayment as well.

Early allowance of the remaining claims is respectfully requested.

Respectfully Submitted,

/William Collard/
William Collard Reg. No. 38,411

Enclosure: 3 month Extension.
Filed 11/30/09